

Department of the Army  
Headquarters, U.S. Army  
Industrial Operations Command  
Rock Island, Illinois 61299-6000

15 DEC 1994

Boards, Commissions, and Committees

BUSINESS CLEARANCE MEMORANDUM AND  
BUSINESS CLEARANCE REVIEW BOARD

Applicability. This regulation applies to all HQ, IOC elements and subordinate installations.

Decentralized Printing. All IOC installations are authorized to locally reproduce this regulation.

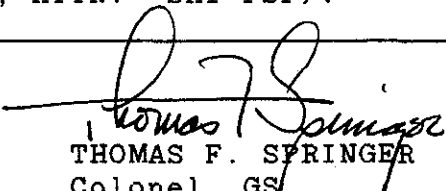
Supplementation. Supplementation of this regulation and establishment of local forms are prohibited without prior approval from Commander, HQ, IOC, ATTN: AMSMC-PPR, Rock Island, IL 61299-6000.

Suggested Improvements. The proponent of this regulation is the HQ, IOC Acquisition Pricing and Policy Directorate. Users are invited to send comments and suggested improvements to Commander, HQ, IOC, ATTN: AMSMC-PPR, Rock Island, IL 61299-6000.

Distribution. Distribution of this regulation is made IAW requirements submitted by IOC organizations (stocked/issued by Rock Island Arsenal, ATTN: SAI-PSP).

FOR THE COMMANDER:

Official:

  
THOMAS F. SPRINGER  
Colonel, GS  
Chief of Staff

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1. Purpose. This regulation establishes Headquarters, U.S. Army Industrial Operations Command (HQ, IOC) Business Clearance Memorandum (BCM) and Business Clearance Review Board (BCRB) requirements. The purpose of a BCM is to document that a proposed contractual action represents good business judgment, conforms to Federal, Department of Defense, and Army acquisition policies and that the price established is fair and reasonable. The BCM serves as the historical record of the business and pricing aspects of an acquisition and must show all the significant facts that were considered in reaching agreement.

2. References.

- a. FAR 1.602-1(b)
- b. FAR 15.807
- c. FAR 15.808
- d. FAR 15.902
- e. FAR 15.903
- f. DFARS 215.807
- g. DFARS 215.808
- h. DFARS 215.902
- i. DFARS 215.903
- j. DFARS 215.970
- k. AFARS 1.602-1(b)
- l. AFARS 15.807
- m. AFARS 15.808
- n. AFARS 15.890
- o. AMC FAR Supplement 1.691-2
- p. AMC FAR Supplement 1.691-3(b)

3. Requirements.

a. A BCM is required for all negotiated contracting actions which exceed \$500,000 IAW Army Federal Acquisition Regulation Supplement (AFARS) 15.890-1. For the purpose of determining the dollar value for BCM requirements and review/approval levels, the determination of dollar value shall be based upon contractor proposed amounts and shall include priced options.

b. Contract actions that require a BCM are described at AFARS 15.890-1. The following additional information is provided to clarify the requirements and approval levels for:

(1) Modifications, the dollar value which will determine the appropriate approving official will be the sum of the absolute value of all additions and deletions.

(2) Multiple awards from the same solicitation, the aggregate of all contemplated awards will determine the appropriate approving official. In the case of multiple awards under mobilization policy where one award is made based on competition and one (or more) subsequent awards are made based on separate cost element negotiations, the competitive award shall be treated as a stand alone action following the competitive BCM dollar thresholds for that action only and any subsequent actions shall be similarly treated as stand alone noncompetitive actions subject to the noncompetitive dollar thresholds for that action. In the event of multiple awards made as a result of competition, the aggregate amount shall continue to be used to determine the appropriate BCM threshold using the competitive thresholds.

(3) Multiyear awards, the overall total value of the multiyear will be used to determine the appropriate approving official.

(4) Any of the three types of indefinite delivery awards, the maximum estimated value of all delivery orders to be placed against the contract will be used to determine the appropriate approving official.

(5) Time and material awards, the total contract ceiling amount will be used to determine the appropriate approving official.

(6) Awards of any dollar amount resulting from small disadvantaged set-asides shall document the fair market price determination in a BCM.

(7) A BCM is not required for negotiated actions based on price competition which are awarded to a single, low offeror, without discussions, and the solicitation notified all offerors of the possibility that award might be made without discussion (includes FAR 52.215-16 ALT III).

(8) The approval level for competitive, negotiated acquisitions requiring a BCM shall be based on the highest priced offer in the competitive range. Paragraph 4.b. of this regulation does not apply to these actions.

(9) Government-owned, contractor-operated Army Ammunition Plants, the establishment of the initial contractual scope of work and the resultant contractor proposed amount for cost and fee/profit will determine the appropriate level of BCM review and approval. Funding actions provided for in the initial contract will not be individually subject to the BCM process.

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c. The BCM consists of two parts as follows:

(1) Prenegotiation BCM (PreBCM) - Upon receipt of the contractor's proposal, Defense Contract Audit Administration (DCAA) audit, pricing and contract administration reports, and upon the completion of a thorough evaluation of the technical aspects, price and proposed contract terms, a PreBCM shall set forth all the significant details of the proposed contract action and the course the contracting officer proposes to pursue (see AFARS 15.890-3). The PreBCM documents the offeror's proposed cost and profit/fee positions, and "how" the price analyst, technical, and auditor developed their recommended positions and how the negotiator developed the prenegotiation objective. Differences between these positions must be reconciled in the BCM. The PreBCM further demonstrates that all significant facts have been evaluated, the judgments made in arriving at the reconciled prenegotiation objective are sound, and the negotiator is adequately prepared to enter into negotiations. The requirements of FAR 15.807 must be fully satisfied by the PreBCM and negotiations may not ensue prior to approval of the PreBCM.

(2) Postnegotiation BCM (PostBCM) - Upon the completion of negotiations, the PostBCM shall set forth in detail the negotiation results obtained, IAW AFARS 15.890-3. The PostBCM completes the historical record concerning the acquisition initiated in the PreBCM and documents that the business and pricing agreements reached are fair and reasonable. The PostBCM reconciles the differences between the PreBCM objectives and the negotiated settlement by presenting any additional facts obtained during negotiations which affected the judgments made by the negotiator. The requirements of FAR 15.808 must be fully satisfied by the PostBCM. The PostBCM is a complete record of discussions and negotiations and should be a well-documented, stand-alone document, regardless of whether the negotiated amount is within or exceeds the PreBCM objective. A PostBCM must be prepared whenever a PreBCM was required. If the negotiated amount exceeds the prenegotiation objective, or any non-price objectives are not met, the rationale will be covered in the PostBCM.

4. Review and Approval Thresholds.

a. The PostBCM shall be approved at the same level as the PreBCM, unless approval dollar thresholds are exceeded, in which case, the PostBCM will be approved at the appropriate higher approval level.

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b. Approval of the PostBCM will not be required when the final negotiated agreement is within the limitation established by the PreBCM approval authority, provided there are no material changes to the terms, conditions, or assumptions under which the PreBCM was developed. In such circumstances, the PostBCM must still be prepared, stating that the final negotiated agreement was within the limitations prescribed in the PreBCM approval. A copy of the BCM should be forwarded to the approving authority along with a completed DD Form 1547 (Record of Weighted Guidelines Method Application).

c. A BCRB must be convened for all noncompetitive actions of \$10 million or more, unless a waiver is obtained from the Principal Assistant Responsible for Contracting (PARC) (See paragraph 8). A BCRB must be convened on all competitive actions requiring PARC or Head of Contracting Activity (HCA) approval of the BCM. Competitive actions are defined as design/technical competition or price competition IAW FAR 15.804-3.

d. The following identify BCM approval thresholds for contracting offices under the cognizance of HQ, IOC:

HQ, IOC AMMUNITION AND INDUSTRIAL BASE PROCUREMENT DIRECTORATE		
Noncompetitive Actions	Competitive Actions	Approval
\$ 0 - \$999,999	\$ 0 - \$9,999,999	Level above PCO
\$ 1M - \$9,999,999	\$10M - \$49,999,999	Chief Contracting Office
\$10M - \$24,999,999	see page 5, Paragraph 4c	BCRB
\$25M - \$49,999,999	\$50M - \$99,999,999	PARC
\$50M and over	\$100M and over	HCA

NOTE: The Acquisition Pricing and Policy Directorate, Review and Compliance Division (AMSMC-PPR) performs an independent review of all BCMs between \$500,000 and board review and approval thresholds. Contract Pricing Division (AMSMC-PPF) review is required on all BCMs.

#### DEPOTS, ARSENALS, MCALESTER, AND CRANE

The Director(s) of Contracting shall approve all BCMs except for the following:

a. BCMs that require the PARC or HCA approval based on dollar thresholds at AFARS 15.890-2(d) and (f).

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b. BCMs requested by Headquarters, U.S. Army Materiel Command (AMC) for review.

c. BCMs selected for review by AMSMC-PPR based on acquisition information contained in the installation's Advance Acquisition Plan.

d. BCMs for Job Order Contracts.

e. BCMs when evaluation factors may result in an award to other than the low offeror.

f. BCMs for Undefined Contract Actions.

g. BCMs resulting from defective pricing audits.

The IOC Director of Acquisition, Pricing and Policy will approve the BCMs described in subparagraphs b through g. The contracting officer shall provide one copy of the BCM and supporting documentation to AMSMC-PPR.

#### 5. Membership.

a. The voting membership of the HQ, IOC BCRB will normally be comprised of no less than four voting members (including the chairman) and will include representatives from the following organizations:

(1) Acquisition Pricing and Policy Directorate, Review and Compliance Division (AMSMC-PPR) serving as chairperson.

(2) Ammunition and Industrial Base Procurement Directorate (AMSMC-PA).

(3) Acquisition Pricing and Policy Directorate, Contract Pricing Division (AMSMC-PPF).

(4) Office of Counsel for Procurement Readiness, Procurement Law Division (AMSMC-GCP).

(5) Plant Operations Office (AMSMC-PDF).

(6) Competition Management Office (AMSMC-BRC).

(7) Product Assurance and Test Directorate (AMSMC-QA).

(8) Production Directorate (AMSMC-PD).

(9) Weapons Systems Management Directorate (AMSMC-AS).

(10) Other staff elements as determined and selected by the chairperson on a case-by-case basis (such as the Defense Ammunition Directorate (AMSMC-DS), Engineering and Housing Directorate (AMSMC-EH), Environmental Quality Directorate (AMSMC-EQ), Industrial Readiness Directorate (AMSMC-IR), Safety Office (AMSMC-SF), Office of Provost Marshal (AMSMC-SS), and Transportation and Traffic Management Directorate (AMSMC-TM)).

b. Each HQ, IOC board member will designate an alternate or alternates to serve in his/her absence. The board members and alternates will be at least a GS/GM 13 or military 04 or bona fide attorney representative from office of Counsel for Procurement Readiness at any grade/rank). Except in unusual circumstances as determined by the board chairperson, the individuals designated as alternates may not vote until AMSMC-PPR is notified, in writing, of their names, grade, office symbol, and phone number.

c. The Chiefs of the Contracting Offices will establish boards with similar membership at their respective sites. A representative from AMSMC-PPR will participate as a voting member in all off site contracting office BCRBs for actions \$10 million and above. If review is requested by AMC, any comments submitted from AMC will be provided to AMSMC-PPR at HQ, IOC by the applicable contracting office. An ad hoc BCRB may be established in lieu of a permanent board, if desired.

#### 6. Responsibilities.

a. Contract Negotiators/Contract Specialists will:

(1) Prepare a PreBCM that establishes and supports a negotiation objective. Standard BCM formats and automated templates will comply with AFARS 15.890-3 and may be tailored to accommodate the level of complexity of the acquisition.

(2) Provide the appropriate number of copies of the BCM, including supporting data such as the pricing/technical report(s) and DCAA audit(s) to AMSMC-PPR for distribution to BCRB members (see procedures for details) on actions requiring a BCRB.

(3) Present an informal briefing to the BCRB addressing the salient factors of the BCM.

(4) Discuss the strengths and weaknesses of the proposed/reconciled negotiation objective on an element-by-element basis (cost elements, technical or other non-price

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related elements) including those resulting in differences between the DCAA position, pricing/technical positions, and the negotiation objective.

(5) Inform the contractor that any tentative agreement is subject to review and approval of the PostBCM and, if necessary, negotiations may be reopened.

(6) Present the BCM and all related documentation to the appropriate review and/or approval authority.

b. Each board member will:

(1) Review the BCM package in detail, prior to the board, particularly in his/her functional area specialty.

(2) Review the cost or pricing data in relation to the proposed negotiation positions to ensure that the negotiation positions are reasonable.

(3) Review all other input to ensure non-price objectives are appropriate.

(4) Ensure that all required reviews, concurrences, approvals, DCAA audits, assist audits, technical evaluations, etc., required before negotiation commences have been obtained.

(5) Ensure that the negotiation position represents a sound business judgment and is in the best interests of the Government.

(6) Review and ensure reconciliation of differences between the DCAA auditor and contracting officer negotiation positions.

(7) Vote to approve or disapprove a pre or post BCM negotiation position.

c. The BCRB will:

(1) Convene at the call of the board chairperson.

(2) Review negotiation objectives of PreBCMs and approve/disapprove; approve subject to specific conditions which will be addressed within the PostBCM; or recommend approval to the appropriate official.



(3) Review PostBCMs to determine whether they adequately summarize/explain the negotiations, reconcile any difference(s) between the PreBCM objective and the negotiated price, confirm that the price is fair and reasonable, and that the PostBCM has been staffed as appropriate.

(4) Approve/disapprove the PostBCM; recommend reopening negotiations; approve subject to specific conditions which will be addressed within an addendum to either the Pre or the PostBCM; or recommend approval to the appropriate official.

d. Any voting member who does not concur in the majority decision or recommendations must submit a minority report setting forth the reasons he or she did not vote with the majority of the board members. The report will be provided to the board chairperson within 3 working days after the board. This report will become a part of the official board minutes.

e. Upon review of the BCM, the approving official will either approve the proposed objective or negotiated agreement, with or without conditions, establish a revised objective or negotiation position and require negotiations to be reopened, or direct any other actions the approving official deems reasonable and proper.

f. The Chiefs of Contracting Offices will establish their own board responsibilities at their respective sites.

## 7. Procedures.

### a. AMSMC-PPR will:

(1) Normally schedule a BCRB 5 working days after receipt of the BCM and supporting documentation.

(2) Notify board members of meetings and distribute documentation normally 5 working days prior to board meeting.

(3) Distribute board minutes via electronic mail within 5 working days following board action, as follows: Original to the contracting officer, one copy to each voting member attending the board, and one copy for BCRB file maintained in AMSMC-PPR.

### b. The BCM Preparation and BCRB Notification/Distribution Procedures/Applicable to IOC BCRBs:

(1) AMSMC-PPF will provide an electronic copy of the pricing report to the contract negotiator/contract specialist via

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electronic-mail. The electronic transition may be supplemented by a hard copy version of the pricing report with spreadsheets, as appropriate.

(2) The contract negotiator/contract specialist may extract pertinent data from the pricing report and include it in the BCM.

(3) The completed BCM will be electronic-mailed to AMSMC-PPR.

(4) Three hard copies of the BCM, pricing/technical report(s), DCAA Audit(s), and any other supporting documentation, will be provided to AMSMC-PPR.

(5) AMSMC-PPR will distribute the BCM to all BCRB members via electronic-mail.

(6) BCRB members may review the BCM on-line or print it out at their workstation.

(7) BCRB members may review the BCM supporting documentation in the AMSMC-PPR office if needed.

c. AMSMC-PPR Participation in Off Rock Island Site BCRBs:

The contracting officer shall send one copy of the BCM and supporting documentation to AMSMC-PPR to arrive a minimum of 5 working days before the scheduled board date. The representative from AMSMC-PPR will participate via teleconference, VENUS conference or in person.

d. The Chiefs of Contracting Offices will establish their own board procedures at their respective sites.

8. Request for Waiver.

a. If circumstances so warrant (such as public exigency, time constraints, etc.), a request for waiver of the BCRB may be initiated. Such a request must be submitted in writing, through AMSMC-PPR to the PARC for approval.

b. The BCM must still be prepared and accompany the request for waiver of the BCRB. The request shall explain, in sufficient detail, the facts and/or conditions which support granting a waiver, and must be signed by the Chief of the Contracting Office prior to submitting through AMSMC-PPR.

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c. The BCM must be approved by the appropriate approving official, i.e., PARC or HCA, whether or not the BCRB waiver is granted.

d. The format of a request for waiver of the BCRB is as follows:

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A-Approval      X-Signature      C-Concurrence      R-Review

TO

R-Review and Compliance Division Office Symbol

A-PARC Office Symbol

Name, Office Symbol, Phone extension

Office Symbol (MARKS #)

SUBJECT: Request for Waiver of BCRB for ITEM/SERVICE, \$AMOUNT

1. PURPOSE:
2. DISCUSSION:
3. CONCLUSION:
4. RECOMMENDATION: That the PARC approve the request for waiver by signing the Approval of Waiver Determination below.

SIGNATURE BLOCK FOR  
CHIEF OF THE CONTRACTING OFFICE

#### APPROVAL OF BCRB WAIVER

In accordance with IOC Regulation 15-3, paragraph 8, it is hereby determined that a Business Clearance Review Board is not required prior to (approval of the negotiation objective) (approval of the negotiated agreement) on (CONTRACT/MODIFICATION) with (CONTRACTOR) for (QUANTITY/ITEM).

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JIMMY C. MORGAN  
Principal Assistant Responsible  
for Contracting